

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DURATION MEDIA LLC,
Petitioner,

v.

RICH MEDIA CLUB LLC,
Patent Owner.

IPR2023-00953
Patent 11,443,329 B2

Before KARL D. EASTHOM, MICHAEL J. FITZPATRICK, and
JASON M. REPKO, *Administrative Patent Judges*.

FITZPATRICK, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

A conference call in the above proceeding was held yesterday, January 3, 2024, between respective counsel for the parties and the presiding panel.

One purpose of the call was to discuss issues related to three pending Motions to seal (Papers, 28, 39, and 40) and various documents currently or previously sought to be sealed. Another purpose was to discuss whether certain documents should be re-filed with updated declaration language or verifications.¹

During the call, counsel for Patent Owner represented, and counsel for Petitioner did not disagree, with the following:

(1) Patent Owner no longer seeks entry of its originally-filed Motion to seal and to enter a protective order (Paper 28; filed November 6, 2023) and the Board may dismiss it;

(2) Exhibits 2009 and 2019, which to date have been provisionally sealed, may be unsealed;

(3) the parties will cooperate to have filed public versions of the documents that are sought to be sealed, with redactions concealing only that which is truly confidential; we understand these documents to be the Patent Owner Response (Paper 35) and Exhibits 2026, 2045, and 2055 (*see* Papers 39 and 40);

¹ A third purpose of the call was to discuss Petitioner's objection to the manner in which the Patent Owner Response relies on Exhibits 2046–2049. This additional subject matter is not discussed herein because it already was addressed in Paper 41.

(4) compliance with 28 U.S.C. § 1746 alone is satisfactory for any declaration already filed or later filed in this case irrespective of, for example, 35 U.S.C. § 25 and 37 C.F.R. § 42.168; and

(5) Exhibits 2055 and 2056, which are Petitioner's responses to the interrogatories and which were filed without verification pages, need not be re-filed with verification pages, verification pages having been served by Petitioner on Patent Owner.

ORDER

In consideration of the foregoing, it is

ORDERED that Patent Owner's originally-filed Motion to seal and for a protective order (Paper 28) is dismissed;

FURTHER ORDERED that Exhibits 2009 and 2019 are unsealed;

FURTHER ORDERED that a public version of the Patent Owner Response, with redactions concealing only that which is truly confidential, be filed no later than January 11, 2024, using a new (next available) paper number;

FURTHER ORDERED that public versions of Exhibits 2026, 2045, and 2055, with redactions concealing only that which is truly confidential, be filed no later than January 11, 2024, using the same exhibits numbers; and

FURTHER ORDERED that, if either party believes the instant Order contains a material error or omission regarding what was discussed during the January 3, 2024, conference call, said party promptly confer with the other party and then contact the Board at Trials@uspto.gov as needed.

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